

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

SUSAN MICIOTTO	*	CIVIL ACTION NO. 6:19-CV-00735
vs.	*	JUDGE TERRY A. DOUGHTY
HOBBY LOBBY STORES, INC., ET AL.	*	MAG. JUDGE PATRICK J. HANNA

RULING

On September 19, 2018, Petitioner, Susan R. Miciotto (“Miciotto”), filed a Petition for Damages in the 15th Judicial District Court, Parish of Lafayette, Louisiana, against Hobby Lobby Stores, Inc. (“Hobby Lobby”) for damages as a result of a fall that occurred on the Hobby Lobby premises on November 30, 2017. On June 11, 2019, a Notice of Removal [Doc. No. 1] was filed, removing the case to this Court.

On January 28, 2020, Hobby Lobby filed a Motion for Summary Judgment [Doc. No. 26] arguing that Miciotto could not establish what caused her to fall and that Plaintiff could not establish that Hobby Lobby had notice of an unreasonably dangerous defect on the premises in accordance with La. R.S. 9:2800.6.

On August 10, 2020, Miciotto filed a Memorandum in Opposition to Motion for Summary Judgment [Doc. No.82]. In her Opposition, Miciotto provided evidence of testimony of two witnesses, Stephanie Cummings and Thurston Hall, who witnessed the fall and testified Miciotto tripped over wood sticking out of the concrete.

Miciotto also provided testimony of Stephanie Cummings, Kelly Fanguy, and Angela Akmenkalns to show Hobby Lobby had actual notice of the alleged defect prior to Miciotto’s

fall. Additionally, Miciotto provided evidence from her expert, John L. Chase, that the wood sticking out of the concrete (that Miciotto allegedly tripped on) created an unreasonable risk of harm.

A Motion for Summary Judgment pursuant to FEDERAL RULE OF CIVIL PROCEDURE 56 should be granted when there is no genuine issue as to a material fact and the moving party is entitled to judgment as a matter of law. In this case, there are material issues of fact as to the alleged defect that caused plaintiff's fall, whether the defect created an unreasonable risk of harm, and whether Hobby Lobby had actual or constructive notice of the defect.

Since material issue of fact exist, Hobby Lobby's Motion for Summary Judgment [Doc. No. 26] is DENIED.

THUS DONE AND SIGNED this 24th day of August, 2020, in Monroe, Louisiana.



TERRY A. DOUGHTY
UNITED STATES DISTRICT JUDGE